

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 854

H.P. 631

House of Representatives, March 21, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MICHAUD of East Millinocket.

Cosponsored by Senator PEARSON of Penobscot, Representative LORD of Waterboro and Representative COLES of Harpswell.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act To Amend the Growth Management Laws.

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(EMERGENCY)



1           **Emergency preamble.** Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
3 as emergencies; and

4           **Whereas,** the Comprehensive Planning and Land Use Regulation  
5 Act created by the 113th Legislature is now being implemented; and  
6

7           **Whereas,** in the judgment of the Legislature, these facts  
8 create an emergency within the meaning of the Constitution of  
9 Maine and require the following legislation as immediately  
10 necessary for the preservation of the public peace, health and  
11 safety; now, therefore,  
12

13           **Be it enacted by the People of the State of Maine as follows:**

14           **Sec. 1. 30 MRSA §4960-B, sub-§ 1,** as enacted by PL 1987, c.  
15 766, §4, is amended to read:  
16

17           **1. Affordable housing.** "Affordable housing" means decent,  
18 safe and sanitary dwellings, apartments or other living  
19 accommodations for households-making-the-full-range-of-incomes-at  
20 or--below--80%---of---the---median---household---income low and  
21 moderate-income households as determined defined by rule by the  
22 Department of Economic and Community Development in consultation  
23 with the Maine State Housing Authority. Affordable housing  
24 includes, but is not limited to, government assisted housing,  
25 housing for low-income and moderate-income families, manufactured  
26 housing, multi-family housing and group and foster care  
27 facilities.  
28

29           **Sec. 2. 30 MRSA §4960-B, sub-§§8 and 9,** as enacted by PL 1987,  
30 c. 766, §4, are amended to read:  
31

32           **8. Local planning committee.** "Local planning committee"  
33 means the committee established by the municipal officers of a  
34 municipality or combination of municipalities which has the  
35 general responsibility established under section 4906-C 4960-C.  
36

37           **9. Moratorium.** "Moratorium" means a land use ordinance or  
38 other regulation approved by a municipal legislative body which  
39 temporarily defers or delays development by withholding any  
40 authorization or approval necessary for development. This  
41 definition does not include any land use ordinance which  
42 restricts the issuance of permits for a specified land use  
43 activity to a specific number of permits during a defined period  
44 of time.  
45

46           **Sec. 3. 30 MRSA §4960-C, sub-§2, ¶¶C, G, H, I, J and L,** as enacted  
47 by PL 1987, c. 766, §4, are amended to read:  
48  
49

1 C. Each municipality shall submit any comprehensive plan  
2 and zoning ordinance proposed to be amended pursuant to  
3 subsection 5 to the office for review.

5 G. At least 60 75 days prior to any public hearing required  
6 in paragraph F, the local planning committee shall forward  
7 its proposed comprehensive plan, to the office and to the  
8 applicable regional council for review and comment.

9 H. At least 60 75 days prior to the initial adoption of any  
10 zoning ordinance or revision pursuant to subsection 5, the  
11 local planning committee or municipal reviewing authority,  
12 as appropriate, shall forward its proposed ordinance to the  
13 office and to the applicable regional council for review and  
14 comment. Notice, hearing and other procedural requirements  
15 for adoption shall be governed by applicable provisions of  
16 this Title, municipal ordinance or charter.

17 I. Any comments and suggested revisions received from the  
18 office within the time limits established by this subchapter  
19 shall be considered by the local planning committee or  
20 municipal reviewing authority, as appropriate, and may be  
21 adopted. The comments and suggested revisions received from  
22 the office shall be made available for public inspection  
23 with the proposed comprehensive plan or land use ordinance  
24 ~~as required in this subsection~~ upon receipt. The notices  
25 required in this subsection shall also contain a statement  
26 to the effect that the comments ~~have been received~~ are  
27 expected from the office and will be available for  
28 distribution prior to and for discussion at the public  
29 hearing.

30 J. The office shall submit its comments and suggested  
31 revisions within 60 days of receipt of the municipality's  
32 ~~submission of the~~ proposed comprehensive plan or land use  
33 ordinance.

34 L. Municipalities within the jurisdiction of the Maine Land  
35 Use Regulation Commission are not subject to the  
36 requirements of this section and section 4960-E, ~~subsections~~  
37 subsections 3, 3-A, 3-B and 3-C.

38 **Sec. 4. 30 MRSA §4960-C, sub-§4, ¶¶C and E,** as enacted by PL  
39 1987, c. 766, §4, are amended to read:

40 C. A comprehensive plan shall include an implementation  
41 strategy section which contains a timetable for the  
42 implementation program, including land use ordinances, that  
43 ensures that the goals established under this subchapter are  
44 met. These implementation strategies shall be consistent  
45 with state laws and shall actively promote policies  
46 developed during the planning process. The timetable shall

1 identify significant ordinances to be included in the  
implementation program. These ~~ordinances~~ A zoning ordinance  
3 shall be adopted within ~~one-year~~ 18 months of the plan  
applicable date established under section 4960-E, subsection  
5 3. The strategies and timetable shall guide the subsequent  
adoption of policies, programs and land use ordinances. In  
7 developing its strategies and subsequent policies, programs  
and land use ordinances, each municipality shall employ the  
9 following guidelines consistent with the goals of this  
subchapter:

11 (1) Identify and designate at least 2 basic types of  
13 geographic areas: Growth areas and rural areas.

15 (a) Growth areas are those areas suitable for  
orderly residential, commercial and industrial  
17 development forecast over the next 10 years. Each  
municipality shall:

19 (i) Establish standards for such  
21 developments;

23 (ii) Establish timely permitting procedures;

25 (iii) Ensure that needed public services are  
available within the growth area; and

27 (iv) Prevent inappropriate development in  
29 natural hazard areas, including flood plains  
and areas of high erosion.

31 (b) Rural areas are those areas where protection  
33 should be provided for agricultural, forest, open  
space and scenic lands within the municipality.  
35 Each municipality shall adopt land use policies  
and ordinances to discourage incompatible  
37 development.

39 These policies and ordinances may include, without  
limitation, density limits; cluster or special zoning;  
41 acquisition of land or development rights; or  
performance standards;

43 (2) Develop a capital investment plan for financing  
45 the replacement and expansion of public facilities and  
services required to meet projected growth and  
47 development;

49 (3) Protect, maintain and, where warranted, improve  
the water quality of each water body pursuant to Title  
51 38, chapter 3, subchapter I, article 4-A;

- 1 (4) Ensure that its land use policies and ordinances  
3 are consistent with applicable state law regarding  
critical natural resources. A municipality may adopt  
5 ordinances more stringent than applicable state law;
- 7 (5) Ensure the preservation of access to coastal  
waters necessary for commercial fishing, commercial  
9 mooring, docking and related parking facilities. Each  
coastal municipality shall discourage new development  
11 that is incompatible with uses related to the marine  
resources industry;
- 13 (6) Ensure the protection of agricultural and forest  
resources. Each municipality shall discourage new  
15 development that is incompatible with uses related to  
the agricultural and forest industry;
- 17 (7) Ensure that its land use policies and ordinances  
19 encourage the siting and construction of affordable  
housing within the community. The municipality shall  
21 seek to achieve a level of 10% of new residential  
development, based on a 5-year historical average of  
23 residential development in the municipality, meeting  
the definition of affordable housing. The municipality  
25 is encouraged to seek creative approaches to assist in  
the development of affordable housing, including, but  
27 not limited to, cluster zoning, reducing minimum lot  
and frontage sizes and, increasing densities and use of  
29 municipally owned land;
- 31 (8) Ensure that the value of historic and  
archeological resources is recognized and that  
33 protection is afforded to those resources that merit  
it; and
- 35 (9) Encourage the availability of and access to  
37 traditional outdoor recreation opportunities,  
including, without limitation, hunting, boating,  
39 fishing and hiking. Each municipality shall identify  
and encourage the protection of undeveloped shoreland  
41 and other areas identified in the local planning  
process as meriting such protection.
- 43 E. An implementation program shall be adopted that is  
45 consistent with the strategies in paragraph C. ~~Significant~~  
~~components--of--the--implementation--strategy--as--identified~~  
47 ~~under--paragraph--C~~ A zoning ordinance shall be adopted within  
~~one-year~~ 18 months of the plan applicable date established  
49 under section 4960-E, subsection 3 with the remainder of the  
strategies adopted according to the timetable set in the  
51 plan and the provisions of section 4960-E, subsection 3-C.

1           **Sec. 5. 30 MRSA §4960-D, sub-§3, ¶G**, as enacted by PL 1987, c.  
766, §4, is repealed and the following enacted in its place:

3           G. The council shall report annually by January 1st to the  
5           Governor and the joint standing committee of the Legislature  
7           having jurisdiction over natural resources on any changes  
9           that may be required to accomplish the purposes of this  
          subchapter.

11           **Sec. 6. 30 MRSA §4960-E, sub-§1, ¶G-1** is enacted to read:

13           G-1. State Planning Office;

15           **Sec. 7. 30 MRSA §4960-E, sub-§§2 and 3**, as enacted by PL 1987,  
17           c. 766, §4, are amended to read:

19           **2. Provision of natural resource and other planning**  
21           **information.** The office shall develop and supply to all  
23           municipalities available natural resource and other planning  
25           information for use in the preparation of local growth management  
27           programs. The office shall make maximum use of existing  
29           information available from other state agencies including,  
31           without limitation, the Department of Conservation, the  
33           Department of Inland Fisheries and Wildlife, the Department of  
35           Marine Resources, the Department of Environmental Protection, the  
37           State Planning Office and the Department of Economic and  
39           Community Development. The office may contract with regional  
41           councils to develop the necessary planning information at a  
43           regional level and with other state agencies as necessary to  
          provide support for local planning efforts. By July 1, 1990, the  
          office shall complete an inventory of the State's natural  
          resources sufficient to ensure adequate identification and  
          protection of critical natural resources of statewide  
          significance. The departments listed in this section shall  
          ensure that the development and implementation of any  
          computerized, geographic-based information management system be  
          capable of providing natural resource, demographic and economic  
          information for local and regional comprehensive land use  
          planning and management. Any such system shall be designed to  
          accommodate use by regional councils and municipalities through  
          computerized remote access.

45           **3. Review of local growth management programs; schedule.**  
47           Subject to the provisions of this subsection and the availability  
49           of state assistance as established pursuant to section 4960-F,  
          municipalities shall submit their comprehensive plans to the  
          office according to the following schedule:

51           A. By January 1, 1991, those municipalities which have  
          experienced population growth of 10% or more between 1980  
          and 1987 and which have total populations in excess of 500

1 persons, based on population estimates provided by the State  
Planning Office;

3  
5 B. By January 1, 1993, those municipalities which have  
experienced population growth of 5% or more between 1980 and  
7 1987, based on population estimates provided by the State  
Planning Office; and

9 C. All other municipalities by January 1, 1996.

11 The office shall revise the schedule deadlines under this  
13 subsection for a municipality based on the availability of state  
assistance and the municipality's rank in the priorities set  
15 forth in section 4960-F, subsection 1. Nothing in this  
subsection may bar a municipality from submitting its plan or  
other program component in advance of this schedule.

17  
19 ~~Each municipality shall submit for review a zoning ordinance  
proposed as part of its implementation program within one year of  
its submission of its comprehensive plan under this subsection.  
21 Other components of the municipality's implementation program not  
submitted for review shall be adopted in accordance with the  
23 timetable provided in the municipality's comprehensive plan.~~

25 **Sec. 8. 30 MRSA §4960-E, sub-§§3-A, 3-B, 3-C and 3-D** are enacted  
to read:

27  
29 3-A. Comprehensive plans; savings; transition. Any  
comprehensive plan adopted or amended by a municipality before  
October 1, 1989, in accordance with prior section 4961 shall  
remain in effect until 6 months after the applicable date  
established under subsection 3.

33  
35 Any comprehensive plan adopted or amended by a municipality after  
October 1, 1989, and before the applicable date established under  
subsection 3 shall comply with the requirements of section  
37 4960-C, subsection 2, paragraph F.

39 3-B. Zoning ordinances; schedule; transition. Each  
municipality shall submit for review a zoning ordinance proposed  
as part of its implementation program within one year of the  
applicable date established under subsection 3. Each  
municipality shall adopt a zoning ordinance consistent with an  
adopted comprehensive plan no later than 18 months after the  
applicable date established under subsection 3. Any zoning  
ordinance not consistent with a comprehensive plan adopted  
according to this subchapter is void 18 months after the  
applicable date established under subsection 3.

49  
51 3-C. Other land use ordinances; schedules; transition.  
Other components of the municipality's implementation program not  
submitted for review shall be adopted in accordance with the



1 timetable provided in the municipality's comprehensive plan under  
2 section 4960-C, subsection 4, paragraph C.

3 Notwithstanding any provision of a municipal timetable adopted  
4 under section 4960-C, subsection 4, paragraph C, any subdivision  
5 or site review regulation or ordinance not consistent with a  
6 comprehensive plan adopted according to this subchapter is void 2  
7 years after the applicable date established under subsection 3.

8 Any land use regulation or ordinance not consistent with a  
9 comprehensive plan adopted according to this subchapter is void  
10 after January 1, 1998.

11 3-D. Nuisances. Any property or use existing in violation  
12 of a land use ordinance or regulation is a nuisance.

13 Sec. 9. 30 MRSA §4960-E, sub-§9, as enacted by PL 1987, c.  
14 766, §4, is repealed.

15 Sec. 10. 30 MRSA §4960-F, sub-§§3, 4 and 7, as enacted by PL  
16 1987, c. 766, §4, are amended to read:

17 3. Municipal technical assistance. The office shall  
18 establish a program of technical assistance utilizing its own  
19 staff, the staff of other state agencies and the resources of  
20 regional councils to help municipalities in the development of  
21 local growth management programs. No later than January 1, 1990,  
22 the office shall develop a set of model land use ordinances and  
23 other mechanisms consistent with the goals and guidelines of this  
24 subchapter. The office may provide financial and technical  
25 assistance under this subsection in the development of local land  
26 use ordinances. Financial assistance for the development of a  
27 local land use ordinance shall not exceed 75% of the cost of  
28 developing the ordinance.

29 4. Municipal implementation assistance. The office shall  
30 develop and administer a matching grants program to provide  
31 direct financial and technical assistance to municipalities for  
32 the implementation and administration of those local growth  
33 management programs that have been certified under this  
34 subchapter. The maximum municipal cost share may not exceed  
35 25%. The grants may be expended for any purpose directly related  
36 to the implementation of a local growth management program and  
37 the administration and enforcement of related land use ordinances  
38 adopted as part of a certified growth management program.  
39 Eligible activities include, without limitation, assistance--in  
40 the development of ordinances, retention of technical and legal  
41 expertise for permitting activities and the updating of local  
42 growth management programs or components of the program.

43 7. Municipal legal defense fund. The office shall develop  
44 and administer a municipal legal defense fund to assist

1 municipalities with legal expenses related to the enforcement and  
2 defense of land use ordinances ~~adopted as part of a certified~~  
3 ~~local growth management program in accordance with this~~  
4 subchapter. Grants shall be targeted to cases of statewide  
5 significance. Two years after the applicable dates established  
6 under section 4960-E, subsection 3, assistance under this  
7 subsection is limited to the enforcement and defense of land use  
8 ordinances adopted as part of a certified local growth management  
9 program in accordance with this subchapter.

11 **Sec. 11. 30 MRSA §4960-F, sub-§7-A** is enacted to read:

13 7-A. Assistance from housing authorities. Notwithstanding  
14 any other provision of law, the Maine State Housing Authority and  
15 municipal housing authorities may provide technical assistance to  
16 municipalities with respect to housing components of  
17 comprehensive plans developed under this subchapter.

19 **Sec. 12. 30 MRSA §4960-F, sub-§§8 and 10,** as enacted by PL  
20 1987, c. 766, §4, are amended to read:

21 **8. Eligibility for other state aid.** After Two years after  
22 the applicable deadline date established in section 4960-E,  
23 subsection 3, a state agency responsible for administering any  
24 grant and assistance program described in subsection 9 shall  
25 award funds to a municipality only when the municipality has  
26 adopted and implemented a certified local growth management  
27 program or has, at a minimum, adopted a certified comprehensive  
28 plan and implemented certified components of the implementation  
29 program that are directly related to the purposes for which the  
30 grant or assistance is provided.

33 **10. Other state grants and assistance.** Except for the  
34 programs specified in subsection 9 and 2 years after the  
35 applicable deadline established under section 4960-E, subsection  
36 3, state agencies responsible for administering grant and direct  
37 or indirect financial assistance programs to municipalities  
38 designed to accommodate or encourage additional growth and  
39 development; to improve, expand or construct public facilities;  
40 to acquire land for conservation, recreation or resource  
41 protection; or to assist in planning or managing for specific  
42 economic and natural resource concerns shall allocate funds only  
43 to a municipality with an adopted comprehensive plan and  
44 implementation program which includes statements of policy or  
45 program guidelines directly related to the purposes for which the  
46 grant or financial assistance is provided. The content of the  
47 plan, policies and guidelines shall be considered by state  
48 agencies in awarding financial assistance to a municipality.

49 **Sec. 13. 30 MRSA §4961, sub-§3,** as enacted by PL 1987, c. 820,  
50 §8, is repealed.

1           Sec. 14. 30 MRSA §4961-A, as amended by PL 1987, c. 860, §§2  
and 3, is repealed.

3           Sec. 15. 30 MRSA §4961-B is enacted to read:

5           §4961-B. Land use regulation

7           The provisions of this section constitute express  
9           limitations on the home rule powers granted to all municipalities  
11           under home rule authority.

13           1. Zoning ordinances. The following requirements apply to  
15           all zoning ordinances and amendments to zoning ordinances adopted  
17           by municipalities pursuant to home rule powers.

19           A. In the preparation of a zoning ordinance, the public  
21           shall be given an adequate opportunity to be heard.

23           B. The ordinance must be pursuant to and consistent with a  
25           comprehensive plan adopted by the municipality's legislative  
27           body.

29           C. A zoning map describing each zone established or  
31           modified must be adopted as part of the zoning ordinance or  
33           incorporated in the ordinance. Any conflict between the  
35           zoning map and a description by metes and bounds shall be  
37           resolved in favor of the description by metes and bounds.

39           D. Real estate used or to be used by a public service  
41           corporation shall be wholly or partially exempted from an  
43           ordinance only when on petition, notice and public hearing  
45           the Public Utilities Commission has determined that that  
47           exemption is reasonably necessary for public welfare and  
49           convenience.

51           E. County and municipal governments, and districts shall be  
          governed by the provisions of any zoning ordinance.

F. Any zoning ordinance shall be advisory with respect to  
          the State.

G. Any property or use existing in violation of any zoning  
          ordinance is a nuisance.

H. Any zoning ordinance may provide that, when a person  
          petitions for rezoning of an area for the purpose of  
          development in accordance with an architect's plan, the area  
          shall not be rezoned unless the petitioner posts a  
          performance bond equal to at least 25% of the estimated cost  
          of the development. The bond shall become payable to the  
          municipality if the petitioner fails to begin construction

1 in a substantial manner and in accordance with the plan  
2 within one year of the effective date of the rezoning.

3 I. Any zoning ordinance may include provisions for  
4 conditional or contract zoning or any other form of zoning  
5 consistent with this subchapter. For the purposes of this  
6 subchapter, "conditional zoning" means the process by which  
7 the municipal legislative body may rezone property to permit  
8 the use of that property subject to conditions not generally  
9 applicable to other properties similarly zoned. "Contract  
10 zoning" means the process by which the property owner, in  
11 consideration of the rezoning of the owner's property,  
12 agrees to the imposition of certain conditions or  
13 restrictions not imposed on other similarly zoned  
14 properties. All rezoning under this paragraph shall:

15  
16 (1) Be consistent with the local growth management  
17 program adopted according to this subchapter;

18  
19 (2) Establish rezoned areas which are consistent with  
20 the existing and permitted uses within the original  
21 zones; and

22  
23 (3) Only include conditions and restrictions which  
24 relate to the physical development or operation of the  
25 property.

26  
27 The municipal reviewing authority, as defined in section  
28 4956, subsection 2, shall conduct a public hearing prior to  
29 any property being rezoned under this paragraph. Notice of  
30 this hearing shall be posted in the municipal office at  
31 least 14 days prior to the public hearing and shall be  
32 published in a newspaper of general circulation within the  
33 municipality at least 2 times, the date of the first  
34 publication to be at least 7 days prior to the hearing.  
35 Notice shall also be sent to the owners of all property  
36 abutting the property to be rezoned at their last known  
37 addresses. This notice shall contain a copy of the proposed  
38 conditions and restrictions, with a map indicating the  
39 property to be rezoned.

40  
41 2. Zoning adjustment. The municipality shall establish a  
42 board of appeals which is subject to the provisions of this  
43 subsection.

44  
45 A. A board of appeals shall be established in any  
46 municipality which adopts a zoning ordinance. The board of  
47 appeals shall hear appeals from actions or failure to act of  
48 the official or board charged with the enforcement of the  
49 zoning ordinance, unless only a direct appeal to Superior  
50 Court has been provided by municipal ordinance. That board  
51 of appeals shall be governed by section 2411, except that

1 section 2411, subsection 2 shall not apply to boards  
3 existing on September 23, 1971.

5 B. In deciding any appeal:

7 (1) The board may interpret the provisions of the  
9 ordinance which are called into question;

11 (2) The board may approve the issuance of a special  
13 exception permit or conditional use permit in strict  
15 compliance with the ordinance; and provided that, if  
17 the municipality has authorized the planning board,  
19 agency or office to issue these permits, an appeal from  
21 the granting or denial of such a permit may be taken  
23 directly to Superior Court if required by local  
25 ordinance; and

27 (3) The board may grant a variance in strict  
29 compliance with paragraph C.

31 C. A variance may be granted by the board only when strict  
33 application of the ordinance, or a provision of the  
35 ordinance, to the petitioner and the petitioner's property  
37 would cause undue hardship. The term "undue hardship" as  
39 used in this paragraph means:

41 (1) The land in question cannot yield a reasonable  
43 return unless a variance is granted;

45 (2) The need for a variance is due to the unique  
47 circumstances of the property and not to the general  
49 conditions in the neighborhood;

51 (3) The granting of a variance will not alter the  
essential character of the locality; and

(4) The hardship is not the result of action taken by  
the applicant or a prior owner.

Under its home rule authority, a municipality may, in a  
zoning ordinance, adopt additional limitations on the  
granting of a variance, including, but not limited to, a  
provision that a variance may only be granted for a use  
permitted in a particular zone. In addition, whenever the  
board grants a variance under this subsection, a certificate  
indicating the name of the current property owner,  
identifying the property by reference to the last recorded  
deed in its chain of title, and indicating the fact that a  
variance, including any conditions on the variance, has been  
granted and the date of the granting shall be prepared in  
recordable form and be recorded in the local registry of  
deeds within 30 days of final approval of the variance or

1 the variance shall be invalid. No rights may accrue to the  
2 variance recipient or the recipient's heirs, successors or  
3 assigns unless the recording is made within 30 days.

4 D. The board shall reasonably notify the petitioner, the  
5 planning board, agency or office and the municipal officers  
6 of any hearing and these persons shall be made parties to  
7 the action. All interested persons shall be given a  
8 reasonable opportunity to have their views expressed at any  
9 hearing.

10  
11 3. Impact fees. A municipality may require, by ordinance,  
12 the construction of off-site capital improvements or may require  
13 payment of impact fees in lieu of construction. No later than  
14 two years after the applicable deadlines established under  
15 section 4960-E, subsection 3, any impact fee ordinance must have  
16 been adopted as part of a certified local growth management  
17 program.

18  
19 A. These requirements may include construction of or impact  
20 fees in lieu of capital improvements, including the  
21 expansion or replacement of existing infrastructure  
22 facilities and the construction of new infrastructure  
23 facilities.

24  
25 (1) Infrastructure facilities include, but are not  
26 limited to, waste water collection and treatment  
27 facilities, municipal water facilities, solid waste  
28 facilities, fire protection facilities, roads and  
29 traffic control devices, parks and other open space or  
30 recreational areas.

31  
32 B. Any ordinance which imposes or provides for the  
33 imposition of impact fees shall meet the following  
34 requirements:

35  
36 (1) The amount of the fee is reasonably related to the  
37 development's share of the cost of infrastructure  
38 improvements necessitated by the development.

39  
40 (2) Funds received from impact fees shall be  
41 segregated from the municipality's general revenues.  
42 The municipality shall expend the funds solely for the  
43 purposes for which they were collected.

44  
45 (3) The ordinance shall establish a reasonable  
46 schedule under which the municipality is obliged to use  
47 the funds in a manner consistent with the capital  
48 investment component of the comprehensive plan.

49  
50 (4) The ordinance shall establish a mechanism by which  
51 the municipality shall refund impact fees, or a portion

1           of impact fees, actually paid which exceed the  
2           municipality's actual costs or which were not expended  
3           according to the schedule under this paragraph.

4           4. Application fees. Any application fee charged by a  
5           municipality for an application for any land use permit issued by  
6           the municipality may not exceed the reasonable cost of  
7           processing, review, regulation and supervision of the application  
8           by the municipality and its consultants and the administration of  
9           any requirement for a certificate of compliance with any permit  
10           conditions.

11           5. Moratorium. Any moratorium adopted by a municipality on  
12           the processing or issuance of development permits or licenses  
13           shall meet the following requirements.

14           A. The moratorium is needed:

15           (1) To prevent a shortage or overburdening of public  
16           facilities which would otherwise occur during the  
17           effective period of the moratorium or which is  
18           reasonably foreseeable as a result of any proposed or  
19           anticipated development; or

20           (2) Because the application of existing comprehensive  
21           plans, land use ordinances or regulations or other  
22           applicable laws, if any, is inadequate to prevent  
23           serious public harm from residential, commercial or  
24           industrial development in the affected geographic area.

25           B. The moratorium is of a definite term, not to exceed 180  
26           days, except that the moratorium may be extended for  
27           additional 180-day periods provided that the municipality  
28           adopting the moratorium:

29           (1) Finds that the problem giving rise to the need for  
30           the moratorium still exists; and

31           (2) Finds that reasonable progress is being made to  
32           alleviate the problem giving rise to the need for the  
33           moratorium.

34           C. In municipalities where the municipal legislative body  
35           is the town meeting, the municipal officers are authorized  
36           to extend the moratorium as provided for and in compliance  
37           with paragraph B after notice and hearing.

38           Emergency clause. In view of the emergency cited in the  
39           preamble, this Act shall take effect when approved.

40

1 STATEMENT OF FACT

3 The general purpose of this bill is to make a number of  
5 minor and technical changes to the growth management laws to  
facilitate its efficient implementation.

7 Sections 1, 11, 13 and 14 and a portion of section 4  
9 reconcile provisions of the growth management laws with  
affordable housing provisions also enacted in the Second Regular  
Session of the 113th Legislature.

11 Section 2 corrects a typographic error; clarifies the  
13 definition of the term "moratorium"; reaffirms the original  
15 legislative intent not to require so-called slow-growth  
ordinances to comply with the provisions governing temporary land  
use moratoria.

17 Section 3 slightly lengthens the period for review and  
19 comment on comprehensive plans and zoning ordinances in order to  
ensure at least a 15-day period for local inspection of state  
21 comments on a plan or ordinance.

23 Sections 4, 7, 8, 9 and 12 clarify the schedule and deadline  
25 requirements of the growth management law. The primary schedule  
dates are contained in section 4960-E, subsection 3, section 7 of  
27 this bill. These dates apply to the submission of local  
comprehensive plans. These dates can be modified by the Office  
29 of Comprehensive Land Use Planning on the basis of available  
funding and other factors listed in the law. Secondary deadlines  
31 are incorporated in section 8 of the bill dealing with the  
submission for review, adoption and revision of implementing land  
33 use ordinances. Section 8 also incorporates savings and  
transition language for existing comprehensive plans and  
35 ordinances. The language in section 8 regarding nuisances is  
existing law.

37 Section 5 directs the Planning Advisory Council to report  
annually to the Governor and the Legislature.

39 Section 6 adds the State Planning Office to the list of  
41 state agencies explicitly involved in the cooperative effort to  
provide assistance to local planning efforts.

43 Section 7 directs the agencies involved in planning  
45 assistance effort to develop a geographic-based information  
system to facilitate local and regional use of the data.

47 Section 10 allows the Office of Comprehensive Land Use  
49 Planning to assist a town in the development of land use  
ordinances before that town has developed a fully certified  
51 growth management program.



1           Section 10 also makes the municipal legal defense fund a  
2 nonlapsing fund as was originally intended. This section also  
3 allows the defense fund to be used now on cases of statewide  
4 significance in advance of full program certification. Two years  
5 after the planning deadline had passed, a town would still have  
6 to have a certified program in order to have access to the  
7 defense fund.

9           Sections 14 and 15 resolve a technical conflict with the  
10 Home Rule Act passed by the First Regular Session of the 113th  
11 Legislature. Section 15 reenacts provisions of existing law to  
12 resolve conflicts between Public Law 1987, chapters 766, 820 and  
13 860. Substantive changes are limited to subsection 3.  
14 Provisions on zoning, zoning adjustments, application fees, and  
15 moratoria are identical to those enacted in Public Law 1987,  
16 chapters 766 and 860. The substance of the provisions of Public  
17 Law 1987, chapter 820, section 9 are included in section 11 of  
18 this bill.

19           Section 15 also clarifies the original intent that a town  
20 must refund any portion of an impact fee which exceeds actual  
21 costs or which is not expended according to the schedule adopted  
22 for that particular impact fee.

23           Finally, section 15 also eliminates a redundant provision of  
24 the impact fee law which required consistency with a growth  
25 management program. This requirement is already stated in the  
26 introductory paragraph to this subsection, Maine Revised  
27 Statutes, Title 30, section 4961-B, subsection 3 in this bill.  
28  
29